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EXAMINER
TANG, KAREN C

ART UNIT	PAPER NUMBER
2151	

DATE MAILED: 04/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Office Action Summary	Application No.	Applicant(s)
		10/043,501	MORAN ET AL.
		Examiner	Art Unit
		Karen C Tang	2151

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>10 January 2002</u>.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-39</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-39</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on <u>1/10/02</u> is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>02/20/03</u>.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

I. Claims 1-11, 13-16, 18, 21-30, 32, 33, 35, and 38 and 39 are rejected under 35

U.S.C. 102(b) as being anticipated by Applicant Admitted Prior Art hereinafter AAPA

(US 6,137,782).

1. Referring to Claims 1, 23 and 39, AAPA indicates an application monitoring system

(refer to abstract), comprising: (a) at least one media module (network element, refer to

Col 4, Lines 5-20) coupled to an associated network segment (refer to Col 5, Lines 9-

25) on which a network application is running (refer to Col 3, Lines 50-67), each media

module adapted for monitoring and collecting data relating to traffic (refer to Col 2, Lines

1-35) on the associated network segment corresponding to the network application

(software packages, refer to Col 1, Lines 54-67), wherein each media module is tailored

for network analysis (38, refer to Fig 2 and Abstract); and (b) an application server

module (server computers, refer to Col 3, Lines 25-55) coupled to the at least one

media module (network elements, refer to Col 3, Lines 25-55) for receiving the data and

analyzing the data for improving the performance of the network application (software packages, refer to Col 1, Lines 50-67, Col 2, Lines 55-67).

2. Referring to Claims 2 and 24, AAPA indicates wherein the application server module (central communication server, 20, refer to Fig 1) provides (refer to Col 7, Lines 55-67) at least one of a user interface, provisioning, reports, alarms, statistics, and an SNMP agent (refer to Col 1, Lines 35-55).

3 Referring to Claims 3 and 25, AAPA indicates wherein the user interface (GUI 28, refer to Col 10, Lines 55-67) is accessible via Internet connection (refer to Col 8, Lines 10-25 and Col 10, Lines 14-65).

4. Referring to Claim 4, AAPA indicates wherein the at least one media module (network element, refer to Col 4, Lines 5-20) includes at least two media modules of different types (agents "D" and "C", receiving information, analyzing information, refer to Col 4, Lines 5-20 and Col 11, Lines 20-50).

5. Referring to Claims 5 and 27, AAPA discloses further comprising at least one additional media module (network element, refer to Col 4, Lines 5-20) that monitors network traffic not related to the network application (refer to Col 1, Lines 54-67).

6. Referring to Claim 6, AAPA indicates wherein multiple media modules (agent 14, refer to Fig 1) are coupled to a common chassis (CME, 12, refer to Fig 1).

7. Referring to Claim 7, AAPA indicates wherein the system is self-managed (automatic, refer to abstract).

8. Referring to Claim 8, AAPA indicates wherein the system is remotely upgradeable (it is inherent that software are upgradeable, refer to Col 2, Lines 55-67 and Col 1, Lines 54-67).

9. Referring to Claims 9 and 28, AAPA indicates wherein the application server module provides expert functions when analyzing the data (refer to Col 5, Lines 1-35 and Col 7, Lines 1-40).

10. Referring to Claim 10 and 29, AAPA indicates wherein the application server module (server computers, refer to Col 3, Lines 25-55) performs a security analysis (topology mapping, which is inherent that it consists a security/reliability functions, refer to Col 5, lines 1-35) based on the data.

11.Referring to Claims 11 and 30, AAPA indicates wherein the application server module (server computers, refer to Col 3, Lines 25-55) performs policy management

functions (topology mapping, which is inherent that it also indicates where the packets

are routed to, refer to Col 5, lines 1-35) when analyzing the data.

12. Referring to Claim 14, AAPA indicates wherein the application server module

detects, configures, manages and downloads software to the at least one media module

(refer to Col 4, Lines 5-20, and Col 6, Lines 35-60).

13. Referring to Claim 22, AAPA indicates a computer program product for monitoring a

network application (refer to Col 2, Lines 25-55), comprising:

(a) computer code for monitoring and collecting data relating to traffic on a network

segment corresponding to a network application (software packages, refer to Col 1,

Lines 54-67) utilizing a media module tailored for network analysis (refer to Col 6, Lines

18-67); (b) computer code for receiving the data (refer to Col 6, Lines 1-20); and (c)

computer code for analyzing the data for improving the performance of the network

application utilizing an application server module (refer to Col 5, Lines 1-40).

14. Referring to Claims 13 and 32, AAPA indicates the server module the usage of

software (server computers, refer to Col 3, Lines 25-55, and software packages, refer to

Col 1, Lines 54-67) wherein trigger scripts (it is inherent that software package consists

trigger scripts to analysis data) are used to customize the analysis of the data (refer to

Col 5, Lines 1-10).

15. Referring to Claim 15, AAPA indicates wherein the at least one media module (agents 14, refer to Col 10, Lines 4-15) preprocesses the data (gathered traffic data information, refer to Col 6, Lines 35-67) prior to receipt of the data by the application server module.

16. Referring to Claim 16, AAPA indicates wherein the application server module includes a user interface server for managing interactions with a user (refer to Col 10, Lines 14-65), an object repository coupled to the user interface server for storing objects (refer to Col 10, Lines 55-65), a configuration manager coupled to the user interface server for providing access to the objects (GUI thread 30, refer to Col 10, Lines 55-67), a remote network monitoring services subsystem (agent 14, refer to Col 11, Lines 1-15) coupled to the user interface system for providing remote access to the objects (traffic flow pattern, refer to Col 10, Lines 15-67), an expert server coupled to the object repository for analyzing data received from a media module (CME 12, refer to Col 45-67), and an administrative services subsystem coupled to the user interface server for providing administrative functions involving the objects (LMAP, refer to Col 10, Lines 55-67).

17. Referring to Claim 18, AAPA indicates wherein the at least one media module includes a data collection module for collecting data from a network segment (refer to

Col 6, Lines 1-20) and prepending the data with descriptor information (CME 12, refer to

Col 6, Lines 1-20), a flow processor for classifying the collected data into a plurality of

flows (refer to Col 6, Lines 60-67), a capture buffer (queue, refer to Col 8, Lines 39-60)

coupled to the flow processor (main thread 22) for filtering (refer to Col 8, Lines 38-60)

and buffering the collected data in accordance with the flow processor, and a main

processor for processing the collected data (LMAP module 18, refer to Col 8, Lines 38-

60).

18. Referring to Claim 35, AAPA indicates prepending the data collected from the

network segment with descriptor information (refer to Col 6, Lines 1-20), classifying the

collected data into a plurality of flows (sort data, refer to Col 7, Lines 1-10), filtering and

buffering the collected data in accordance with the flow processor (data parser 34, refer

to Col 7, Lines 1-10), and processing the collected data (analyzer, refer to Col 7, Lines

5-55).

19. Referring to Claim 26, AAPA indicates further comprising simultaneously monitoring

(multithread, refer to Col 8, Lines 39-50) different types of data (highest data rates to

lowest, refer to Col 10, Lines 35-47) on multiple co-located network segments.

20. Referring to Claim 33, AAPA indicates managing interactions with a user (refer to

Col 10, Lines 20-65), storing objects (refer to Col 10, Lines 55-65), providing access to

the objects (display data to user, refer to Col 10), providing remote access to the objects

(accessing data through times, refer to Col 10), analyzing data received from a media

module (traffic data gathered by media module, refer to Col 10), and providing

administrative functions involving the objects (filtering, refer to Col 10).

21. Referring to Claims 21 and 38, AAPA indicates wherein the data analysis includes

gathering performance data of the application during the monitoring (refer to Col 2,

Lines 25-55 and Col 6, Lines 60-67); generating a set of metrics (records, refer to Col 8,

Lines 40-67) in real time based on the performance data (refer to Col 8, Lines 39-67);

and measuring a performance of the application from at least one of a client

perspective, a server perspective, and a network perspective based on the metrics

(refer to Col 8, Lines 10-60).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

II. Claims 12, 17, 19, 31, 34, and 36 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Applicant Admitted Prior Art hereinafter AAPA (US 6,137,782)

and Elliott et al hereinafter Elliott (US. 6,754,181).

1. Referring to Claims 12 and 31, AAPA indicates wherein the application server module

(server computers, refer to Col 3, Lines 25-55) performs several functions (refer to Col

8, Lines 25-67 and Col 9 and Col 10).

AAPA does not expressly indicate the server module indicates the accounting functions.

Elliott discloses the accounting functions (refer to Col 24, Lines 1-25)

At the time of the invention, it would have been obvious to a person of ordinary skill in

the art to combine AAPA and Elliott.

The suggestion/motivation would have been that AAPA consists of network monitoring

function to monitor traffic (refer to Col 6, Lines 40-67). Accounting function within

network is considered to be type of traffic, it would make the system even more flexible

to incorporate the accounting system within the AAPA and useful.

2. Referring to Claims 17 and 34, AAPA indicates wherein the application server module

(44, refer to Fig 2) discloses a registry services subsystem for associating an object with

at least one of a user and the server system (refer to Col 3, Col 4, Col 8, Col 9, and Col

10 and Fig 2) , a triggers manager for managing triggers (refer to Col 7), and a

hardware services subsystem for providing communication between the server system

and external modules (refer to Col 3, 4, 5 and 6).

Elliott discloses wherein the application server module includes at least one of a logging

manager for storing logging information, a statistics manager for dispatching statistics,

an alarm manager for dispatching alarms (refer to Col 109, 110 and 111), an event

manager for dispatching events (refer to Col 111), a capture manager subsystem for

creating trace files (refer to Col 99 and Col 101), a session manager for managing a

user session (refer to Col 94), a security manager for providing authorization levels to

users (refer to Col 93 and 94 and 95).

At the time of the invention, it would have been obvious to a person of ordinary skill in

the art to combine AAPA and Elliott.

The suggestion/motivation would have been that AAPA indicates the security of the

network system (refer to Col 6). He also indicates the usage of monitoring traffic system

utilizing the CME 12, servers and other network elements (refer to Col 5). It would be

easier for the network management to have all the separate functions to be managed by

each individual manager and process at the same time (multithread, refer to Col 8).To

decrease the processing time.

3. Referring to Claims 19 and 36, AAPA indicates wherein the at least one media

module performs filtering functions (refer to Col 6, Lines 60-67) and network segment

(refer to Col 5, Lines 9-25). He also indicates the usage of queue for store information

(refer to Col 8, Lines 35-60) and threshold (refer to Col 10, Lines 35-50). AAPA also

define the system is able to determine/monitor maximum data storage (refer to Col 8,

Lines 25-40).

AAPA does not expressly indicate filtering comprising: (i.) classifying the data in the

network segment into multiple flows; (ii.) prioritizing the flows into high and low priority

flows; (iii.) monitoring an amount of data in the high priority flows (refer to Col 20, Lines

1-45); and (iv.) reallocating resources from the low priority queue to the high priority

queue if the amount of data in the high priority flows surpasses a predetermined

threshold.

Elliott discloses usage of (i.) classifying the data in the network segment into multiple

flows (refer to Col 19, Lines 55-67 and Col 20); (ii.) prioritizing the flows into high and

low priority flows (priority tag and non-tagged, refer to Col 19, Lines 55-67); (iii.)

monitoring flows (refer to Col 20, Lines 30-45); and (iv.) reallocating resources from the

low priority queue to the high priority queue if the amount of data in the high priority

flows surpasses a predetermined threshold (refer to Col 26, Lines 20-67 and Col 111).

At the time of the invention, it would have been obvious to a person of ordinary skill in

the art to combine AAPA and Elliott.

The suggestion and motivation for doing so would have been that AAPA indicate the

system consists functionality of monitoring the traffic and filtered them according to the

traffic data characteristic (refer to Col 6 and Col 7). By classify the traffic into various

flows, and reallocate the resource as necessary, add the flexibility and can void traffic

backlog within the system.

        III. Claims 20 and 37 rejected under 35 U.S.C. 103(a) as being unpatentable over

Applicant Admitted Prior Art hereinafter AAPA (US 6,137,782) in view of "Official

Notice".

1. Referring to Claims 20 and 37, AAPA indicates wherein the analysis of the data by

the application server module includes creating reports (refer to Col 8, Lines 25-40)

based on the monitored data, and output the reports to a user (refer to Col 10, Lines 35-65).

AAPA does not expressly indicate of utilizing graphs and logs as part of the reports. Official Notice is taken that it is obvious for ordinary skill in the art to utilize the graphs and logs because it is a common practice.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the AAPA and "Official Notice"

The suggestion/motivation would have been the by incorporate graphs and logs within the reports, provides conveniences to the user to understand the data more clearly.

Conclusion

A shortened statutory period for reply to this Office action is set to expire THREE MONTHS from the mailing date of this action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen C Tang whose telephone number is (571)272-3116. The examiner can normally be reached on M-F 7 - 3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571)272-3939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

KT

ZARNI MAUNG
SUPERVISORY PATENT EXAMINER